

As noted in the Notice of Proposed Rulemaking (NPRM), “There is evidence that despite Commission action to reduce delays and costs of infrastructure review, providers continue to face significant costs and delays and reform may be needed.”

- Georgia Historic Preservation Division (HPD)/Georgia State Historic Preservation Division (SHPO) would like to note that this delay, and the relevant costs associated with it, are not due to local or state rules and processes, rather they are due to the Nationwide Programmatic Agreement (NPA) under Section 106 that requires tower companies to go through time-consuming hurdles, such as reviewing every publically-available file within the SHPO office. Less time and money would be spent doing a simple field survey within a set area of potential effect (APE) based on the tower/collocation height.
- Time limits are based on federal law (ie. the National Historic Preservation Act [NHPA]). If the FCC would prefer to have shorter review periods and less time for SHPO review, then funding should be provided (or the FCC should lobby for the Historic Preservation Fund to be fully funded) so that SHPOs can maintain the staff needed to review the thousands of projects requiring review under Section 106. Batching only works if the SHPO is financially supported in their review of the projects submitted.
- HPD would like to point out that the delays under Section 106 of the NHPA are not from SHPO, rather they are from consultants and tower companies representing the FCC not completing or fulfilling the intent of Section 106. Further, they come from the FCC, itself, in not responding in a timely manner regarding the resolution of adverse effects in the form of MOAs and mitigation. The time and cost of reviews is not because of the typical Section 106 law, it is because of the requirements the NPA places on providers. Further, delays would be prevented if the FCC participated in a timely manner.
- Historic Preservation review should not be excluded, rather FCC should understand the requirements of the law and work with the law to expedite review under the NHPA. It appears to HPD that the majority of FCC’s efforts have been focused on ‘skirting’ the requirements of the NHPA rather than working within the NHPA to get the job done. HPD finds that working within it, actually achieves the goal in a more efficient manner.
- By law, the licensing, permitting, etc. of a project (ie. the construction of a tower), is an undertaking. As such, the FCC is responsible for complying with NHPA. If the FDIC is required to review the licensing of bank branches and USACE is required to review permitting of wetlands, the FCC is no different.
- “Twilight Towers” already exist – while it is HPD’s opinion that their deployment and use should be mitigated under Section 106, we find that their re-use for additional collocations, etc. is a perfectly acceptable use. Our office would rather see the reuse of existing towers than the construction of new towers.
- DAS is the least of HPD worries – these are small cell deployments that are such a small impact, especially in areas where light posts, utility posts, and similar already exist. HPD would recommend a comprehensive, rather than exclusive, agreement that allows for the appropriate exclusion of DAS in relevant cases, rather than the FCC’s typical route of avoiding the law.
- HPD would like to point out that pre-construction review by local municipalities is separate from SHPO review - local processes are separate from, and do not satisfy, federal processes. As such, it should not be considered part of the Section 106 process – it is not the same law or the same

process. All projects that have federal involvement cannot commence until the Section 106 review is completed. The issue lies in the agency's ability to consult SHPO in a timely manner, not in the law and process, itself.

- The current process for pole replacement is satisfactory, as is. ROW exemptions would depend on what is currently existing in ROWs. DAS should be covered under a comprehensive, not exclusive, agreement regarding DAS, not ROW. Collocation exclusions depend on what they antenna is collocated on, not that it is a collocation in the first place.

Overall, HPD finds that there is no need for an "examination of the regulatory impediments" as they are not impediments. Rather, they are federal requirements that have been shown to easily be worked within to complete the goals of any given federal agency. Our proposal, which would require "updated regulatory framework," is to provide for a quick and easy field survey of historic resources, within a set area of potential effect, which would provide for much less time in dusty archives and SHPO offices, AND satisfy the intent of Section 106 of the NHPA. Above all else, the local and state agencies should have the final say in the siting of a cellular tower, or any other aspect the FCC deems appropriate for broadband development – otherwise, without this cooperation, where will the FCC be?

Section 106 is not impermissible; it is a process that simply has to be completed. All other federal agencies must complete it – the FCC should as well. Further, the FCC has not been open to the amending of the NPA.